

MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT DIVISION OF CREDIT UNIONS NEWSLETTER

Volume 4, Number 5

June 28, 2002

CREDIT UNION COMMISSION MEETS

The Credit Union Commission met on June 27, 2002 by telephone conference call. Commission members in attendance were Pat Yokley, Bill Humpfer, Sharon Ichord, Cathy Stroud, Pat Macdonald, Lori Levine and John Hanneke. Others attending were Judy Hadsall, City Utilities Employees Credit Union, Rob Perkins, Mizzou Credit Union, Glen Barks, First Community Credit Union, Pat Nurski, Wireco Credit Union, Peggy Nalls and Rosie Holub, Missouri Credit Union System, Christy Kincannon, Attorney General's Office, Becky Kilpatrick, Attorney, Department of Economic Development, Zurett Merridith, and John P. Smith, Division of Credit Unions.

Minutes from the February 15, March 5, April 13, April 18 and May 9, 2002 Commission meetings were approved.

The Commission reviewed the field-of-membership expansion applications submitted by **First Community Credit Union, Wireco Credit Union** and **Mizzou Credit Union**. More than 3,000 potential members exist within each group. The Commission found the groups met the criteria for an exemption from the limitations on groups in 4 CSR 105-3.040.

The Commission deferred hearing the appeal of the Director's decision approving the field of membership expansion of City Utilities Credit Union until the August 8, 2002 Commission meeting.

The next Commission meeting is scheduled for August 8, 2002 in Jefferson City.

NET WORTH

In the October 22, 2001 Newsletter we wrote briefly of the advantages of adequate net worth. In this article we are addressing managing net worth and current conditions.

Presently Missouri chartered credit unions net worth positions range from well into the double digits to somewhat below 7%. As you might expect, the smaller asset credit unions have some of the highest net worth positions. This usually is due to their lack of growth. They are also more susceptible to single losses such as a new car loan that must be charged off resulting in high losses.

Conversely those on the lower end of the spectrum are either newer credit unions or have sustained losses or have been poorly managed. Most credit unions maintain a net worth position of 9% or greater.

The 9% position makes a lot of sense as it should provide an adequate cushion for unexpected growth or losses while allowing management time to adjust before triggering the restrictions of Prompt Corrective Action at 7% net worth. These are usually the credit unions that exhibit adequate managerial resources and proper controls over all areas of credit union operation. This may not apply to credit unions that have a steadily eroding net worth position but remain above 9%.

Two areas - asset size and profitability primarily affect the net worth position. This is fortunate as management, given enough time to act, can largely control these areas.

Net worth position is only one of several factors credit unions are managed for. But regardless of the area of decision-making (lending, marketing, pricing, return to members, etc.) ultimately it is the net worth position that will be affected. Thus credit union management must continually monitor net worth to remain a safe and sound cooperative member owned business. The average net worth reported on the end of year 2001 Call Reports was 10.41%.

FIELD OF MEMBERSHIP APPLICATION UPDATE

Springfield Telephone Employees Credit Union (now **Telcomm Credit Union**) submitted an application to include those persons who reside or work in the 417 telephone Area Code and the 573 (bordered on the north by I-70) telephone Area Code. The Director approved the expansion of **Springfield Telephone Employees Credit Union** to those in the 417 Area Code, but not the 573 Area Code. The decision was published in the November 15, 2000 Missouri Register. On November 30, 2000 the Missouri Bankers Association (MBA) and Century Bank of the Ozarks (CBO) filed an appeal of the decision to the Credit Union Commission. The Commission heard the appeal on March 29, 2001. On May 24, 2001 the Commission upheld the decision of the Director. On August 16, 2001, the decision was released and the Director filed **Springfield Telephone Employees Credit Union's** amended bylaws with the Secretary of State. On

September 14, 2001, the MBA and CBO filed a petition for administrative review in Cole County Circuit Court.

On November 19, 2001, a hearing was held before Judge Tom Brown, Division 1, Circuit Court of Cole County. The motion to refer the case to another division of the court was granted and the case was referred to Judge Byron Kinder, Division 2. A motion to dismiss the case for lack of standing was heard on January 3, 2002. On January 29, 2002 the court ruled the plaintiffs lack standing to maintain causes of action set forth in their petition and ordered the plaintiffs' petition be dismissed. On March 11, 2002 the MBA and CBO filed an appeal of the decision in the Western Appellate Court of Appeals. Appellant's briefs are due June 3, 2002 with the respondent's briefs due July 3, 2002. Disposition of the case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/> case number WD61134.

South Community Credit Union submitted an application for those who work or reside in Zip Codes 63109, 63111, 63116, 63123, 63125, 63128, 63129, and Crawford County, Franklin County, Gasconade County and Washington County. **Central Communications Credit Union** submitted an application for those persons who reside or work in the 816 telephone Area Code. The Director approved the applications submitted by **South Community and Central Communications Credit Unions**. These decisions were published in the November 15, 2000 Missouri Register. On November 30, 2000 the MBA and two local banks located in each of the two applicants' field of membership expansion areas filed appeals of the decisions to the Credit Union Commission. The Commission received the record of appeals from all parties on May 24, 2001. On August 9, 2001 the Commission upheld the decisions of the Director. The written decisions were released on January 25, 2002. On February 21, 2002, the MBA and the local banks filed a petition for administrative review in Cole County Circuit Court. Both cases were assigned to Judge Tom Brown, Division 1. On April 17 the cases were reassigned to Judge Byron L. Kinder, Division 2 and a motion was entered to stay the proceedings until the outcome of the Springfield Telephone Employees case was decided. The cases can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; the case numbers are 02CV323402 and 02CV323401.

Gateway Metro Credit Union submitted an application for those living or working in the Missouri counties of St. Louis, St. Charles and Jefferson. The application was published in the December 15, 2000 Missouri Register. The Director approved the application and his decision was published in the February 15, 2001 Missouri Register. On March 1, 2001 the MBA and a local bank located in the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On March 1, 2002, the application was withdrawn rendering the appeal moot and an application for residents and employees in the Missouri counties of St. Louis and

St. Charles submitted. The application was published in the April 15, 2002 Missouri Register. The Director approved the application and his decision was published in the June 3, 2002 Missouri Register. The decision is now final.

Educational Employees Credit Union (now **Vantage Credit Union**) submitted an application for those who live or work in St. Louis County, St. Charles County, Jefferson County, Cape Girardeau County and Franklin County. The application was published in the December 15, 2000 Missouri Register. The Director approved the application and his decision was published in the February 15, 2001 Missouri Register. On March 1, 2001 the MBA and two banks located in the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission received the record of appeal of **Educational Employees Credit Union** on October 19, 2001 and established briefing schedules. On March 5, 2002, the Commission dismissed the appeal due to lack of standing.

City Utilities Credit Union submitted an application for community residents and workers in Greene and Christian Counties. The application was published in the June 1, 2001 Missouri Register. The Director approved the application and his decision was published in the August 1, 2001 Missouri Register. On August 14, 2001 the MBA and a local bank located within the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission must schedule the appeal hearing.

CommunityAmerica Credit Union submitted an application for those who live or work in Jackson County. The application was published in the June 3, 2002 Missouri Register. The director approved the application and his decision will be published in the July 15, 2002 Missouri Register. A fifteen calendar day period for appeal of the decision must occur before the decision is final.

SLCWC Credit Union submitted an application for employees of the Missouri American Water Company located in the State of Missouri and its successor organizations and that employees immediate family. **Edison Credit Union** submitted an application for active or retired employees of: ACME Signs, Arrowhead Containers, Building Materials Distributors, Columbia Glass and Window Co., Cook Composites and Polymers, Factory Motor Parts, Foley Company, Gallo Fresh Produce, Harvesters Community Food Networks, Highway Trailer Sales, Kansas City Auto Auction, KCI Incorporated, L'il Guys Foods, Midwest Terminal, Midwest Wholesale Hardware, Nakano Foods, Ticket Master of Kansas City, Western Forms, Inc., immediate family members and households of members. The applications will be published in the July 1, 2002 Missouri Register. A ten business day comment period must occur before the director can make a decision.

OFFICE OF FOREIGN ASSETS CONTROL'S (OFAC'S) SPECIALLY DESIGNATED NATIONALS (SDN) LIST AND THE FBI'S CONTROL LIST

In early June, the NCUA notified credit unions about differences between the Office of Foreign Asset Control's (OFAC's) Special Designated National (SDN) List and FBI Control List.

The two lists are separate and distinct. Several regulatory alerts have been issued with updates to the SDN List and an examination checklist focused on OFAC compliance has also been issued. Credit unions must monitor, on an ongoing basis, all financial transactions performed by or through them to detect those that involve any entity or person subject to OFAC sanctions.

• OFAC's SDN List

OFAC administers and enforces economic and trade sanctions against foreign countries, terrorism sponsoring organizations, and international narcotics traffickers based on U.S. foreign policy and national security goals. OFAC acts under Presidential wartime and national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze foreign assets under U.S. jurisdiction. Many of the sanctions are based on United Nations and other international mandates.

U.S. sanctions go beyond targeted countries. SDNs are persons who are not nationals of a designated target country, but who are treated as nationals or as the government in applying sanctions to their transactions. Terrorists and narcotics traffickers are also included as SDNs.

Credit unions must monitor, on an ongoing basis, all financial transactions performed by or through them to detect those that involve any entity or person subject to the OFAC sanctions. If a credit union finds a true match, appropriate action must be taken to block or reject, as applicable, the transaction, and then file the appropriate report with OFAC. Credit unions should immediately notify OFAC via the hotline at 1800-540-6322. Information is available regarding OFAC at its website: <http://www.treas.gov/ofac>. You may also refer to Regulatory Alerts 01-RA-10, 01-RA-12, 01-RA-13, and 02-RA-03 and NCUA Letter to Credit Unions 01-CU-25.

• FBI's Control List

The Control List was compiled by federal law enforcement agencies conducting the investigation into terrorist activities of September 11th and consists of names of individuals and entities that are believed to be relevant to investigations. The Control List may contain names that

are on the OFAC List, but the Control List does not necessarily include all of the names on the OFAC List, nor does the OFAC List necessarily contain all of the names on the Control List. The banking community has been asked to cooperate with law enforcement authorities in their on-going investigations. **The Control List must be treated with the utmost confidentiality as disclosure might compromise ongoing investigations.**

Every institution is being asked to review all of its records, on a one-time basis from January 1, 1996, to the present, to determine whether there are any records indicating transactions or relationships involving anyone on the Control List. Periodically, the Control List has been updated to include additional names. (Supplement #3 was sent to credit unions in early May.) If a match is found with a name on the Control List, the credit union should send a message, via an email to: suspicious.accounts@ny.frb.org, identifying itself and stating only that there was a positive response to the Control List. The Federal Reserve Bank of New York will then contact law enforcement authorities to arrange for a subpoena to be issued. Supplements to the Control List will only include new information or corrections to the Control List or previous Supplements.

NCUA Letter to Credit Unions 01-CU-18, dated October 2001, asked that credit unions provide NCUA with a contact name and email address or fax number in order to receive the Control List. The e-mail address or fax number requested for this purpose will likely be different from that provided on the Call Report so that it is directed to a specific person or office to ensure confidentiality and proper distribution throughout the credit union. The NCUA web address for credit unions to provide the information is <http://www.ncua.gov/cuaddress> or the information can be faxed to (703) 519-4080. A form for the information is provided in Letter 01-CU-18.

The Department of Treasury is currently drafting a regulation (in consultation with the financial institution regulators, including NCUA) stemming from the Patriot Act that will require financial institutions to verify the identity of persons opening an account. One of the requirements will likely be checking the name against not only the SDN list, but also the Control List. Currently, NCUA has email addresses or fax numbers with a point of contact for approximately 3,600 credit unions. Those credit unions that have not provided us with their contact information are not receiving the Control List. Therefore, those credit unions not receiving the Control List are not in compliance with Letter 01-CU-18 and will not be in compliance with the future regulation.

In preparation for this probable regulatory requirement, we are requesting your assistance to ensure that all credit unions have provided contact information from which to receive the Control List. During the next regularly scheduled examination or supervision contact, our examiners will determine if the credit union has provided

NCUA with their contact information or ensure that the information is still correct. You do not need to make a special contact to the Division of Credit Unions or NCUA.

FROM THE DIRECTOR

Legislation

HB 1921 revises the terms of office for credit union commissioners by requiring the terms be staggered. The bill also allows the Division of Credit Unions, at the discretion of the director, to examine qualifying credit unions once every 18 calendar months instead of annually. After the legislation is signed by Governor Holden, a rule delineating criteria that qualify credit unions for the eighteen month examination cycle will be drafted, submitted to the Credit Union Commission for approval and published in the Missouri Register for comment. Promulgation of rules is a four to six month process. Implementation of the eighteen month examination cycle can occur when the rule is effective.

Quarterly Call Reports

Beginning with the June 30 Call Report, all credit unions will be reporting quarterly. A shortened version of the 5300 Call Report, the 5300SF has been developed. Credit union filing with assets of less than \$10 million will file the 5300SF during the first and third quarters of the calendar year.

Web Site

Credit unions are encouraged to use the Division of Credit Unions' web site. Links are provided to these forms which can be reprinted:

[Interim Notification of Changes in Officials](#)
[Application for Additional Groups or Geographic Areas](#)
[Oath of Office](#)
[Amendment to Standard by-laws](#)
[Amendment to Par Value Change](#)
[Complaint Form \(can be submitted electronically\)](#)

Links to Missouri credit union statutes (RSMo 370), consumer statutes (RSMo 480) and rules (4 CSR), the organization chart listing the Division of Credit Unions' employees, and the consolidated financial information about Missouri credit unions.

An interactive credit union and branch locator link is on the site. The "What's New" link can be used to access the latest Newsletter or other recently posted information. A link to research information and links to other credit union internet sites is also on the home page. Contact the Division of Credit Unions if you have suggestions on how the web site can be modified to be of greater use to your credit union.

Small Credit Union Program

The NCUA has a Small Credit Union Program (SCUP) for

- federally insured credit unions under \$5 million in assets,
- credit unions in operation 10 years or less with under \$10 million in assets and
- low Income designated credit unions.

SCUP publishes a Newsletter for small credit unions. If you are interested in receiving a copy of the Newsletter, contact this office at (573) 751-3419. To obtain more information about SCUP, access NCUA's website at <http://www.ncua.gov/org/orgchart/scup/index.html>

We wish everyone a happy and safe Independence holiday.



John P. Smith, Director

SMALL CREDIT UNION WORKSHOP

The National Credit Union Administration (NCUA) SCUP is hosting a small credit union workshop in St. Louis, MO., on October, 8, 2002, at the Sheraton West Port Lakeside Chalet, 191 West Port Plaza, St. Louis, MO. 63146. (314) 878-1500. We encourage small credit unions in the state of Missouri to attend this workshop. Agenda topics have been established based on feedback we've received from small credit unions in the past year. This year's topics and agenda are as follows:

<u>Registration/Continental Breakfast – On US</u>	8:00 a.m. to 8:30 a.m.
<u>Lending</u>	8:45 a.m. to 10:15 a.m.
<u>Balancing the Balance Sheet</u>	10:30 a.m. to 11:30 a.m.
<u>Morning Wrap-up</u>	11:30 a.m. to 11:45 a.m.
<u>Lunch – On Us</u>	11:45 a.m. to 1:00 p.m.
<u>Strategic Planning</u>	1:00 p.m. to 2:30 p.m.
<u>Investments</u>	2:45 p.m. to 3:45 p.m.
<u>Afternoon Wrap-up</u>	3:45 p.m. to 4:00 p.m.

There is no fee for attending, continental breakfast and lunch are complements of the NCUA, and we have limited funds available to help pay for the travel costs associated with attending the conference. Since funds are limited, we ask that you fax or mail a registration form (included below) to NCUA as soon as possible, but no later than September 3, 2002.

The NCUA SCUP is a voluntary program designed to provide small credit unions with a unique training and mentoring experience. Our goal is to provide training and assistance in areas determined by the credit union's officials. The primary target audiences for SCUP are credit unions with:

- Assets of \$5 million or less,
- Newly chartered credit unions under \$10 million in asset size that have been in existence for 10 years or less, and
- Low-income designated credit unions.

To register for this conference, please provide the following information to NCUA:

Credit Union Name: _____

Charter/Ins. Cert. No.: _____

Phone Number: _____

Participant Name/Title: _____

If applying for reimbursement of expenses, please complete the section below.

Anticipated expenses:

Airfare \$_____

Privately-Owned Vehicle Mileage (@\$0.365/mi.)

\$_____

Lodging? Yes____ **no** ____ **(will be direct billed to NCUA)**

Please provide comments in support of your need for reimbursement: _____

Reimbursement is limited to a maximum of \$150 per credit union representative and 80 participants per workshop. Requests for reimbursement will be evaluated on a case-by-case basis upon receipt of your registration. Payment will be made after the completion of the workshop and upon receipt of a reimbursement voucher (which will be provided at the workshop) and supporting expense documentation.

Please send your application to NCUA by:

FAX (630) 955-4120

E-mail: R4SCUP@NCUA.gov

or by mail:

National Credit Union Administration
4225 Naperville Road
Suite 125
ATTN: EDS Ronald Jones
Lisle, Illinois 60532-3658

To obtain more information about SCUP, access NCUA's website at

<http://www.ncua.gov/org/orgchart/scup/index.html>
